

European institutions at your fingertips

EUROPA Gateway tools for dissemination and access to information

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ABSTRACT

This paper intends to present the legal background that support dissemination and access to documents from European institutions, namely the Parliament, the Council and the European Commission. Currently, this legal framework is accomplished with a set of Internet tools that are analyzed regarding official documents types and options searches available. Some statistical data on access to European information published in annual reports from the institutions are also evaluated. The relationship between shadow and light in transparency to access administrative documents and marketing issues of a political communication are underlined. Neo-institutional approach, reputational concept in public organizations and systemic perspective are used as theoretical background.

KEYWORDS: European information, openness, transparency, information users

1. THEORETICAL BACKGROUND

Since the beginning of the 1990s, the European Union (EU) has had to face certain crises concerning the Community integration project, in particular at the time of the ratification of the Maastricht Treaty (1992), which was initially rejected by the Danish and approved by only a small margin in France. One of the responses to this situation was to pay closer attention to issues associated with citizen information, especially access to documents. Parallel to this, European governance principles were discussed, particularly with regard to openness and transparency. European institutions therefore subscribed to the trend, which had begun during the 1970s/1980s, of promoting open government subject to accountability at all times rather than simply during election periods.

Following a neo-institutional approach (Olsen, 2008), this may be seen as a response in the form of a political discourse, in this case through regulations and procedures, addressing external changes by re-establishing an order favouring and appropriate to greater European integration. At the same time, it can be seen that access to documents,

openness and transparency contributed towards the process of institutionalising and legitimising the EU, in particular its three main institutions, the Parliament, the Council and especially the European Commission. In fact, in external terms, it helped create and transmit an image of democraticity (Héritier, 2003) and proximity to citizens whilst, from an internal point of view, conveying standardised procedures to staff for the dissemination of information.

Nevertheless, in order to avoid reductionism it may also be useful to consider the contribution made by systems theory, used in Political Science since the 1960s (Easton) and more recently in the field of Information Science (Silva; Ribeiro, 2002). Systemic approaches aim to create a general conceptual system capable of explaining the complexity of the phenomenon under study and the dynamics of input and output processes. The intention is to identify the most significant processes, isolate the determining variables and formulate verifiable empirical hypotheses.

Thus, from a systemic perspective, strategies directed towards accessing documents, openness and transparency are involved in the inputs and outputs of the process of legitimising the EU on various levels:

- a) They facilitate knowledge and the involvement of civil society in European policies;
- b) They uphold the accountability of institutions to citizens, who can therefore assess their actions;
- c) They support the creation of reputational capital, which promotes trusting relationships and supportive feelings.

Luoma-aho (2008) used the concept of reputation in the analysis of certain institutions and public services. Reputation is an artificial concept, which is culturally determined to a great extent and based on individual assessment and subjective perceptions rather than exact and expressive quantitative assessment. A good reputation offers a favourable environment for action, but requires ongoing efforts to be invested in good practices that arouse feelings of credibility, trust and responsibility in stakeholders with regard to public services. In the case of Europe, this position is based on the idea that if public access to the relevant information on EU procedures and decisions is extended and facilitated, scepticism, alienation and even opposition to integration will be reduced.

According to Chris C. Demchak, Christian Friis and Todd M. La Porte (2000), openness is a characteristic of an organisation which freely and universally provides comprehensible information and establishes direct and regular communications with the general public. In the view of the same authors, transparency refers to the extent of the worth of the potential knowledge contained in the information offered by an institution in order to provide visibility for the internal actions of state bodies so that citizens can access the relevant data. Accessibility refers to the ease and extent to which citizens (users) can interact with information sources (people, institutions and documents). Accessibility therefore implies that government information is duly identified, namely in bibliographical terms, enabling it to become public knowledge. In addition, it is necessary to remove any economic, social or technological barriers that might make it difficult or impossible to access this information. In fact, accessibility is reduced if the public does not have the opportunity to locate the information or if it appears in formats which require unusual tools to make it readable. This implies a notion of availability involving aspects such as access time, user-friendly viewing formats or, in the case of European institutions, the sensitive issue of translation in order to make information accessible in all the official EU languages.

According to Grønbech-Jensen (1998), it's possible to consider access from two points of view: active access, involving the possibility of transmitting and requesting information to/from political or administrative decision-makers in order to have a voice in the decision-making process, and passive access, consisting of opportunities to obtain information on the progress of decision-making processes and the actors involved in them. The European institutions have invested in both: the e-consultations (http://ec.europa.eu/yourvoice/index_en.htm) promoted by the European Commission are an

example of active access whilst all the databases containing institutional documents are an example of passive access. The implementation of document access strategies designed to create conditions favouring openness and transparency represented an opportunity to modernise information management and the institutional methods of dealing with internal decision-making processes and procedures, within both the Parliament and the Council and Commission. This meant an extensive reformulation of the production, register, storage, access, assessment and conservation of information by all European institution departments. Therefore, since 2002, the Commission implemented the e-Domec project (Electronic Archiving and Document Management in the European Commission) based on a broad analysis of the contexts for the production and use of information and a set of internal regulations to support this new approach. Legal instruments that provide access to documents and which have made this one of the elements of European governance will now analyse.

2. LEGAL INSTRUMENTS FOR DOCUMENT ACCESS

The question of transparency and openness within Community bodies had already been raised in a 1972 parliamentary report (Schuijt), which criticised the practice of secrecy in decisions taken by the European Council. However, it was only from the 1980s onwards (White Paper on the Single Market, 1985) that the call for European institutions to become more open, transparent, accountable and democratic became a challenge to European actors and the national governments of the Member States. However, as Lodge emphasises (1994), the critical stance taken by national governments in relation to the European Commission on this matter sought, to a large extent, to distract attention away from the lack of openness and transparency in procedures and decision-making within the European Council where these national governments were represented. Moreover, concerns about openness and transparency meant a focus on bureaucratic and administrative procedures rather than on questions and decisions of a political nature, which governments had proved incapable of resolving at the time.

In 1992, with the *Declaration on the right of access to information* included in the Maastricht Treaty, the advantages of transparency within the decision-making process in reinforcing the democratic nature of institutions and public confidence in the administration, was officially recognised by all Member States as a component of good European governance. As Parker noted (2004, 81), the text marked «[...] a turning point, both in awareness of the significance of information in encouraging a positive public response to Europe and the recognition of the right of access to information about the EU». This position was reinforced in the European Councils held in Birmingham (October, 1992), Edinburgh (December, 1992) and Copenhagen (June, 1993) and the work of the Commission in this area.

During 1993-1994, the Council, the Commission and later the European Parliament adopted a common code of conduct for document access. The provisions applied to documents in the possession of each of the institutions, regardless of the format in which they were registered. Documents in the possession of an institution but not produced by it were not covered by the regulations, meaning that information authored externally could not be accessed, which was a significant restriction.

Documents could be accessed physically by means of *in loco* consultation or the forwarding of a copy at the expense of the applicant. However, it should be borne in mind that at the time there was no public register of documents and ordinary citizens could experience great difficulty in supplying the relevant forms of identification to enable them to consult the material they wanted. Moreover, access to a document could be denied in a wide range of circumstances

defined in very generalised terms, including protection of public interests, protection of the individual and individual privacy, protection of commercial and industrial secrecy, protection of Community financial interests, protection of any requested confidentiality or in order to guarantee secrecy for internal Council and Commission decisions.

It may be considered that the measures taken by the EU with regard to document access during the period after the ratification of the Maastricht Treaty had a dual aim. They were directed towards opening up European bodies to public scrutiny, providing citizens with access to information that could enable them to take part in the debate on Europe, and they also helped to make the legislative process more transparent by improving information on the decision-making process itself.

In March 1996, the Intergovernmental Conference on the review of the Maastricht Treaty opened in Turin and special attention was paid to the concern for transparency and openness during the course of the proceedings, in addition to the inclusion of new deliberations on document access in the future treaty.

Article 1 of the Amsterdam Treaty (1997) therefore states that decisions must be taken as openly as possible and as closely as possible to the citizen. In addition, the right of any citizen of the Union and any natural or legal person residing or having its registered office in a Member State to access European Parliament, Council and Commission documents is enshrined in Article 255. To this end, institutions were obliged to create rules of procedure containing specific provisions for access to their documents.

Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents was therefore duly approved, containing a very broad definition of a document as «[...] any content, whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility» (Article 3). Bearing this definition in mind, it is possible to refer to the right of access to information rather than the right of access to documents, given that the medium is not a defining element in terms of granting or denying access to content. The aim was to ensure the widest possible right of access, both for EU citizens and citizens of other countries, without the need to state reasons for the application (Article 2, § 1 and 2; Article 6, § 1).

This meant that the right to full access prevailed, given that all documents held by an institution, including those produced internally and those received from third parties, had to be accessible to the public (Article 2, § 3). In this context, any refusal of access to a document could only constitute an exception and had to be justified in terms of safeguarding the public and private interests explicitly stated in the Regulation as exceptions (Article 4, § 1 and 2). Exceptions included matters arising out of public interest (public security, defence and military matters, international relations and financial, monetary and economic policies), privacy and the integrity of the individual. The disclosure of documents could also be refused on the grounds of safeguarding commercial interests, court proceedings and inspections, and the possibility of partial access to documents was introduced (Article 4, § 6).

Applications for access to a document had to be made in one of the official EU languages, on the basis of the identification data supplied for the registration of European Parliament, Council and Commission documents available on the Internet. If sufficient information did not exist to enable the required documents to be identified, the services had to assist applicants in completing their application (Article 6). In addition, the period of time within which an institution was obliged to respond to applications from the public was limited to 15 days (Article 7). In the event of a refusal of access, the institution was obliged to inform the applicant by means of a written reply justifying the decision and also informing them of the possibility of appealing against the decision by submitting a confirmatory application. If access to the document was refused again, the institution had to inform the applicant of the remedies open to them, namely

instituting court proceedings against the institution and/or lodging a complaint with the European Ombudsman (Article 8).

In April 2008, the European Commission presented a Proposal for the Regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents. The document was forwarded to the Council and the Parliament, where it became the subject of a parliamentary report produced by Michael Cashman (2009), in which substantial amendments were proposed. In April 2010, a new proposal for the Regulation, which is not yet in force, was published in the Official Journal of the European Union.

3. INTERNET TOOLS FOR EUROPEAN DOCUMENTS RETRIEVAL AND ACCESS

Following Regulation 1049/2001, the Parliament, Council and European Commission created Internet tools for a document register. Citizens were therefore guaranteed knowledge of unpublished content (written on paper or stored in electronic form or as sound, visual or audiovisual recordings) relating to all institutional spheres of activity. Internal documents, including those that were not yet definitive versions or were not destined to be published, became identifiable and could be consulted and accessed by actors who were not EU staff. It therefore became possible to consult, for example, preparatory decision-making and policy initiative documents, including preliminary drafts, interim reports, draft legislative proposals or decisions, explanatory documents, statistics, memoranda or studies, as well as correspondence between institutions, Member States, citizens and companies.

The image shows a screenshot of the 'EUROPEAN PARLIAMENT REGISTER OF DOCUMENTS' website. The header is blue with the text 'EUROPEAN PARLIAMENT' and 'REGISTER OF DOCUMENTS'. Below the header, there is a language selector set to 'sv - svenska'. The main content area is titled 'Advanced search' and contains several search filters: 'Reference' (text input), 'Words in title' (text input), 'Document type' (dropdown menu set to 'All'), 'Author' (text input), 'Addressee' (text input), 'Authority' (text input), 'Date' (dropdown set to 'All dates' with 'from' and 'to' date pickers), 'Sort by' (dropdown set to 'Document date' with 'descending order'), and 'Hits per page' (dropdown set to '5'). At the bottom right of the search area are 'Cancel' and 'Search' buttons.

Fig. 1 - *European Parliament – Register of documents*

(Retrieved December 28, 2010, from <http://www.europarl.europa.eu/RegWeb/application/registre/advancedSearch.faces>)

The European Parliament created the register of documents which provided access to documents produced since 1999. Three types of search options are available: simple, advanced [Fig. 1] and by document type. The simple search option covers words contained in the document title.

The advanced option allows for searches in specific fields, including the document reference, type (including correspondence), the body that produced the document (internal or external to Parliament) and recipient (in the case of internal and external European Parliament mail). Searches can also be made by various data types. The search by document type option is interesting since it is based on a classification system consisting of five classes divided into categories and sub-categories. Individuals from outside Parliament can therefore have access to a general but highly

structured knowledge of the document types produced by this institution. In some cases, there is also a direct link to all documents within a particular sub-category.

The public register of Council documents, available since 1 January 1999, contains references for this institution's documents which are based on an automatic filing system. Therefore non-sensitive documents presented to the Council or one of its preparatory bodies which are destined to serve as a basis for deliberations, and documents that may influence decision-making processes or reflect the state of work on a particular dossier are automatically cited in the register. Simple and advanced search options are available.

Fig. 2 - Council of the European Union – Register of documents

(Retrieved December 28, 2010, from <http://register.consilium.europa.eu/servlet/driver?typ=&page=Simple&lang=EN&cmsid=638>)

The simple search option [Fig. 2] covers words in the title or text of documents, as well as meetings dates and subject matter. The subject matter search consists of selecting term(s) used in the document indexation. A subject code followed by a reference number, re-set to zero at the start of each year, is attributed to each index term, and the General Secretariat of the Council is responsible for this list.

The advanced search also offers the opportunity to search by fields relating to the document number and the date of the document or file. In addition, it is possible to consult a list containing the most recent references to documents, in full-text format or otherwise, and a list of the most recently published documents, including references to those produced since 1999 that have only recently been made available to the public (for example, documents made available after legislation has been passed). In this way, the Council conveys an impression of continuously updating the available documents, although it not make full use of new technologies since it does not allow for RSS links to be set up for these pages.

The Commission register includes documents with COM references (legislative proposals, other communications and reports prepared by the Commission for the Council and/or other institutions and the respective preparatory documents), C references (referring to official documents that are the responsibility of the Commission, some of which are forwarded to the Council or Parliament for information purposes), agendas (from 2003 onwards) and minutes of Commission meetings (from 2001 onwards) and SEC documents (not classified in other categories).

In addition to these main resources, the European institutions also offer other databases that allow working documents to be accessed and the decision-making process and the role of the actors involved to be monitored. The Council, for example, provides a database for ordinary legislative procedures, the Parliament offers the European Parliament's Legislative Observatory (OEIL) and the Commission has created the DORIE database, an archive of documents on institutional matters. The archives of each institution also offer access to internal documents dating back over 30 years. It can therefore be concluded that, via the Internet, European citizens benefit from a wide range of mechanisms that provide access to documents and institutional procedures. Certain data on the use of these resources will now be analysed.

4. ANALYSIS OF DATA ON ACCESS TO DOCUMENTS

As established in Regulation 1049/2001, each institution is obliged to publish an annual report containing data on access to documents (Article 17). In compliance with this stipulation, the Parliament has provided reports since 2005 and the Council and Commission since 2002. We will analyse the conclusions presented in these documents, which are an important source of information in the analysis of current methods of accessing documents from these three European institutions.

	2002	2003	2004	2005	2006	2007	2008	2009
Parliament	28.828	62.482	90.838	121.671	165.139	207.069	262.049	310.760
Council	448.236	569.372	691.410	727.685	849.117	1.010.217	1.195.509	1.371.608

Table 1 - *Annual trend for number of documents available in Parliament and Council register*

Table 1 shows that the amount of documents in the Council register is always much higher than those in the Parliament register, although it should be borne in mind that the Council calculates all the language versions of each document, which exponentially increases the number of registrations since some may exist in two and others in all 22 of the official languages. In order to obtain a more accurate and coherent picture it would therefore be convenient for all institutions to use the same criteria to calculate the number of registrations available. It should also be noted that the method for calculating existing registrations is not clearly explained in the Commission reports and these were therefore not analysed in this study.

	2005	2006	2007	2008	2009
number of visits	109.780	71.241	39.013	40.845	44.538
users logged	151.176	109.780	58.848	57.419	61.823
screens viewed	203.159	131.124	65.156	72.410	84.094

Table 2 - *Numerical data on the use of document Commission register*

	2005	2006	2007	2008	2009
number of visits	1.064.039	1. 722. 354	2.078.602	895.299	1.176.017
users logged	260.106	380.349	465.612	482.842	554.952
screens viewed	5.470.970	7.818.759	9.212.745	11.920.634	10.011.440

Table 3 - *Numerical data on the use of document Council register*

Table 2 and table 3 show that the Council register is used much more intensively than the Commission register. In terms of numbers of users, there has been a decrease over time in the use of the Commission register, whereas the figures for the Council register have always risen. In addition, the number of visits by each user to the Council register increased very significantly in 2007, followed by an abrupt decrease in 2008, before levelling off in 2009. In contrast, these figures have tended to decrease for the Commission, even though there was a slight upturn in 2009. Although the reports do not provide any explanations for these numbers, it may be recalled that the Commission, makes intensive use of the PreLex database in addition to its documents register, and this may be the reason why users feel less need to make use of the register.

	2002	2003	2004	2005	2006	2007	2008	2009
Civil society	26,7%	21,4%	21,8%	17,2%	17,6%	14,2%	18,4%	17,2%
Journalists	2,0%	2,1%	2,6%	2,3%	2,3%	2,9%	2,9%	2,8%
Lawyers	11,0%	13,0%	10,7%	10,2%	9,1%	8,8%	9,4%	11,4%
University research	23,4%	24,0%	25,5%	31,0%	32,2%	38,2%	32,3%	32,6%
Library	2,6%	2,5%	2,2%	1,3%	2,3%	1,8%	1,1%	1,0%
Public authorities	4,9%	8,4%	7,3%	6,2%	6,9%	6,1%	7,6%	4,0%
Member of the European Parliament	2,5%	2,3%	2,1%	2,4%	1,5%	1,3%	1,8%	1,4%
Others	5,9%	9,3%	10,4%	12,6%	14,5%	13,3%	14,4%	15,8%
Undeclared professional origin	21,0%	17,0%	17,4%	16,8%	13,6%	13,2%	11,1%	12,7%

Table 4 - *Professional background of applicants for initial requests for Council documents*

In addition to stipulating the creation of a document register which provides free and direct access to a large amount of data, Regulation 1049/2001 also contains provision for citizens to apply to consult other documents through initial and confirmatory applications. Each institution must describe these applications in its annual report, specifically in terms of the professional background of applicants [Table 4].

Initial applications to the Council come mainly from university-based researchers. Civil society associations (including environmental pressure groups, other special interest groups, the commercial and industrial sector and NGOs) only headed the applications in 2002. Only a very small number of journalists submitted initial applications. In fact, for this profession the Council public register of documents is only one of several sources of information used and individuals were chiefly interested in breaking news. Access to documents was mainly of interest to investigative journalism. Curiously enough, individual Members of Parliament also submitted applications to consult Council documents. Lawyers were one of the three main categories who made the most applications, although in some cases in order to use the data in court proceedings against European institutions. It should also be noted that university libraries submitted a very small number of applications. This may be related to the data on applications from university-based researchers

and is evidence that, doubtless due to Internet access to the public register libraries, they have, in fact, lost their role as intermediaries in searching for, locating and accessing documents from EU institutions.

These specific figures on access to institutional information must be considered within the wider context of the use of EUROPA, a site launched in February 1995 with the aim of making up-to-date information available on EU-related events. With the development and general development of the Internet, the increase in users and the amount of information available, the EUROPA gateway has become the largest in the world, combining 150 sites managed independently by EU institutions, agencies and bodies. In 2009, it received 294,000,000 visits and it's a good argument to EU institutions claim for an Union closer to citizens and open and transparent governance.

5. CONCLUSIONS

Following legislation on access to documents, the European institutions realised that simply making factual and descriptive information or information with a propaganda or marketing slant available was not enough to lend credibility to the European project. It had to be opened up internally to public scrutiny, as did its involvement in the decision-making process. In order to achieve this, access to information that was strictly organisational and functional in origin, emerging from each institution's fulfilment of its mission and not reconfigured to convey a specific image, became essential, since this enabled citizens to access primary data. However, the European institutions also reap symbolic rewards from this investment. In fact, in the case of data on accessing documents from EU institutions, the use and benefits resulting from the various existing means of consulting documents are, in quantitative terms, low. However, from a qualitative point of view, specifically with regard to creating a good reputation for the European institutions, the return is very positive and is valued by the EU institutions themselves for establishing a discourse which legitimises trustworthy, credible and responsible work. From the perspective of a neo-institutional approach, these initiatives contribute towards reinforcing a positive image of the EU institutions by increasing their reputational capital.

Legal and technological infrastructure, for the dissemination of European institutional/administrative information created by European institutions, supports a political discourse of openness and transparency. On the other side, they are an example of good governance from democratic institutions that intend to be closer to European citizens. However, statistics relating to the requests for access European institutions documents shows that a few number of European citizens use the right to access European documents that the Parliament, the Council and the Commission don't put on the Internet in open access. And those who use that right to make initial or confirmatory requests to access documents are applicants from very specific groups that study European issues or that with European institutions. So the use of the right to access European documents is elitist and common citizens don't take advantage of it. Access to documents leads to transparency, openness but also to communication. Anyway, communication needs transmitter and receiver, one talk and the other is willing to listen. In European context, it seems that institutions want to talk and spreading information, but only a few individual have the interest and willingness to listen. Among them are University researchers, various pressure groups in civil society and lawyer. Unlike ordinary citizens, they showed most evidence of taking advantage of the various means of accessing documents. Facilities offering access to European information therefore appear to contribute towards the hegemony of well-established lobbies which understand the Community bureaucratic and legal machinery. They benefit most directly from the legislation, instruments and mechanisms created to make access to

institutional documents possible.

Anyway, the regulation and the technological infrastructure on the access to support access to documents, transparency and openness support European democratic legitimation in the sense that they help to create a new administrative culture inside the institutions. European officials had to reconfigure and adapt themselves to new administrative and decision making procedures. Regarding documents, officials have to understand that the custodial attitude had to become post-custodial in the sense that information is created not only to keep save but to become accessible to individuals. They change from a secrecy and shadow paradigm of administrative procedure to a new one of light and openness. Anyway, institutions needs opacity, a screen that filters what comes from outside and leaving abroad (internal tensions, compromises, among others). So transparency is a balance between light and opacity. It's a light shade that helps institutions to "protect" their nature and to illuminate a new discourse to engage citizens and reinforce support to the European integration project.

The systemic approach also helps us understand that all the regulatory measures within the context of access to documents, openness and transparency constitute inputs which the European system has assimilated as part of its response to moments of crisis in the integration project, thus adapting dynamically to internal and external circumstances. At the same time, these measures also result in outputs which have reconfigured these internal and external structures.

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